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LETTER DATED 22 MARCH 1993 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I have the honour to transmit a letter from Mr. Mohamed Said Al-Sahaf, Minister for Foreign Affairs of the Republic of Iraq, dated 22 March 1993, containing Iraq's position on an extremely important matter related to the compensation provided for under paragraph 19 of the unjust Security Council resolution 687 (1991).

I should be grateful if you would have this letter circulated as an official document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

Annex

Letter dated 22 March 1993 from the Minister for Foreign Affairs of Iraq addressed to the President of the Security Council

I have the honour to state Iraq's position on an extremely important matter related to the compensation provided for under paragraph 19 of the unjust Security Council resolution 687 (1991), which sets forth the mechanisms for determining the appropriate level of Iraq's contribution to the Compensation Fund based on a percentage of the value of the exports of petroleum from Iraq not to exceed a figure to be suggested to the Council by the Secretary-General of the United Nations, taking into account the requirements of Iraq and Iraq's payment capacity, and taking into consideration external debt service and the needs of the Iraqi economy.

Pursuant to the above paragraph, the Secretary-General of the United Nations submitted a comprehensive report (S/22559) dated 2 May 1991 in which he made proposals concerning the institutional framework of the Compensation Fund and the United Nations Compensation Commission, the structure of the Commission, its status, privileges and immunities, its expenses and its headquarters, and the functions of the Governing Council, the commissioners and the secretariat. He also proposed the mechanisms for determining the appropriate annual level of Iraq's contribution to the Compensation Fund, the arrangements for ensuring that payments were made to the Fund, the compensation claims procedure, the method of filing claims, the processing of claims and the payment of compensation.

Security Council resolution 692 (1991) approved the aforesaid report and established the Compensation Fund in accordance with the proposals of the Secretary-General. The headquarters of the Governing Council was to be in Geneva, and the Governing Council was to decide whether some of the activities of the Commission should be carried out elsewhere.

Security Council resolution 705 (1991) also approved the proposal made by the Secretary-General of the United Nations in his note (S/22661) dated 31 May 1991, in which he estimated the needs of the Iraqi economy in imports at $8 billion of the total petroleum revenues, which he estimated at approximately $21 billion annually. On that basis, he determined the percentage for debt servicing at 22 per cent and a percentage not exceeding 30 per cent for the contribution to the Compensation Fund.

Iraq has noticed with regret that certain companies and individuals have started to bring actions in their national courts claiming compensation for damage which they allege to have sustained, thereby aiming at the assets and reserves which Iraq has abroad, instead of seeking recourse to the Compensation Commission. The execution of those claims against Iraqi assets abroad, instead of from the resources of the Compensation Fund, means that the percentage deducted from Iraq's petroleum exports will exceed in practice the upper limit for compensation payment specified by the Security Council. Consequently, that will have negative repercussions on Iraq's ability to provide the essential needs of the Iraqi people and the Iraqi economy, which may severely harm the Iraqi economy, thus making it impossible for Iraq to fulfil its obligations towards the Compensation Fund itself.

In the light of the foregoing, the Government of the Republic of Iraq requests the Security Council to take the measures which it deems appropriate to lay down guidelines to coordinate the measures related to compensation at both international and local levels in order to ensure that the percentage of compensation to be determined is not exceeded. It requests all States concerned to coordinate with it before beginning to implement the decisions of national courts in connection with such claims.

I should be grateful if you would have this letter circulated as an official document of the Security Council.

(Signed) Mohamed Said AL-SAHAF
Minister for Foreign Affairs of
the Republic of Iraq